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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/996,663	11/29/2001	Daniel Raymond Cerone	8794	4856

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THE PROCTER & GAMBLE COMPANY  
INTELLECTUAL PROPERTY DIVISION  
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EXAMINER
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HYLTON, ROBIN ANNETTE

ART UNIT	PAPER NUMBER
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3781

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 09/996,663  
Filing Date: November 29, 2001  
Appellant(s): CERONE ET AL.

**MAILED**

**MAR 07 2007**

**Group 3700**

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David K. Mattheis  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed November 17, 2006 appealing from the Office action mailed April 6, 2006.

Art Unit: 3781

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

The amendment after final rejection filed on June 23, 2006 has not been entered.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

WO01/51378

Hupp

7-2001

**(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

Art Unit: 3781

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Hupp (WO 01/51378).

The claims broadly set forth a container body, a cover defining an X-Y plane when first and second fastener portions on the body and cover are engaged, a track comprising a track fastener portion formed on the fastener, a ramp and a slider movable along the track for opening and closing the fastener. Hupp also discloses the same structure.

To the degree set forth in the claims and given the broadest, reasonable interpretation, the inclined end surface portions of the fastener define a ramp and extend from the fastener portion. As seen in figure 3 of Hupp, the cover panel 12 defines the X-Y plane. The track and fastener portions 14 are seen to extend above the X-Y plane defined by the lid 12. Moreover, the portion 64 is also a ramp that extends from the first end of the closure further having an inclined surface extending at an angle to the X-Y plane. The slider is seen in Figure 1 to be "parked" out of the way of the opened lid via a ramp.

Regarding claim 17, a portion of the fastener lies in multiple planes, thus defining more than one plane.

It is noted that claim 19 is drawn only to a fastener. With regard to claim 19, the track is set forth as having a fastener portion formed on and extending from an end of the interlocking fastener portion. The edge of fastener portion on the left side of the container depicted in Fig.2 is seen as the ramp.

**(10) Response to Argument**

Appellant argues the disclosure of Hupp fails to anticipate the instant claims since the disclosure of Hupp 1) does not explicitly show the relationship of the fastener, cover and slider in more than one view in the drawings and 2) the specification is silent regarding the relationship. The examiner has already submitted that the written specification is silent regarding a "ramp" extending from the fastener portions. The drawings are relied upon for what they reasonably disclose and suggest to one of ordinary skill in the art. MPEP 2125.

First, it is pointed out that appellant has not set forth structure in the claims to define the claimed ramp. The term must then be given the broadest and most reasonable interpretation. This leads one of ordinary skill in the art to consider the claimed ramp to be an inclined surface, i.e., inclined and extending away from the fastener portions. Thus, the end edges of the fastener portions, seen engaged in Figures 2 and 3, form a ramp extending from the fastener portions.

Similarly, the portion of the segment identified as 64 in Fig. 2 has inclined surface portions which form a ramp extending away from the fastener portions. The inclined surfaces extend at an angle from both the closed cover 12 and the engaged fastener portions. This interpretation is reasonable since appellant has not set forth structure for the ramp and has not set forth that "an angle" is inclined with respect to the structure from which the ramp is said to extend.

It is clear from appellant's argument that the references fail to show certain features of appellant's invention, that appellant is relying upon features (i.e., the structure and inclination of the ramp) which are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

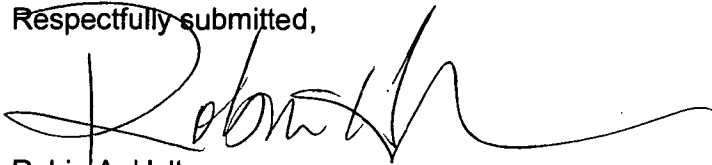
Art Unit: 3781

**(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,



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